

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

J.R., on behalf of his daughter S.R.,

Plaintiff,

v.

Case No. 1:20-cv-00759-JHR-JFR

**LAWRENCE ANDREW LARSON, in his
Individual Capacity,**

Defendant.

ORDER APPROVING SETTLEMENT AND DISTRIBUTION OF PROCEEDS

THIS MATTER having come before the Court on December 1, 2021, pursuant to a Fairness Hearing to determine whether the settlement between the parties was fair, reasonable, negotiated at arms' length, and in the best interest of the minor plaintiff.

The Plaintiff J.R., on behalf of his daughter, S.R., served as plaintiff in two ongoing lawsuits as well as A.R., S.R.'s mother, as well as S.R., the minor, and all represented by Shannon L. Kennedy of The Kennedy Law Firm, P.C., the Defendant(s) were represented by Walz and Associates, P.C., Jerry A. Walz, and present was the Court appointed Guardian ad Litem Gabrielle Valdez.

In making the Court's determination to approve the settlement and the proposed distribution of the proceeds, the Court received a thorough and comprehensive report [Doc. 106] and amended report from the GAL [Doc. 107], and considered the representations from counsel, and received both a statement from the minor, S.R., and testimony from her father, J.R., which were made part of the recorded record.

The Court was further informed, with agreement by all counsel and the GAL and the parties, that the settlement was a global settlement that resolved the federal proceeding before the Court as well as a proceeding in state district court against separate defendants pursuant to state

claims. The state defendants are represented in the state proceedings by Walz and Associates, P.C., Jerry A. Walz, who was authorized to represent to the federal court that they support approval of the global settlement. The released parties and specific state proceeding were identified in the record and affirmation was made among counsel that Plaintiff J.R. properly executed the Global Settlement Agreement.

The Court also heard testimony and requests for approval from J.R. as plaintiff who brought the lawsuit(s) on behalf of his daughter, S.R., and further reviewed the representations of counsel and information provided by the Guardian ad Litem in approving the distribution proposal which will be set forth herein.

Based upon the above, the Court hereby finds the following:

1. The settlement of the claims advanced on behalf of S.R., was fair, reasonable, negotiated at arms' length, and complied with the factors set forth in *Jones v. Nuclear Pharmacy, Inc.*, 741 F.2d 322 (10th Cir. 1984).

I. Analysis of Jones Factors

(i) It was noted in the record by the Guardian ad Litem and acknowledged by counsel and the parties that the advanced claims were contested, that there was uncertainty as to whether Plaintiff would prevail, and there remained a potential of appeal by either party depending on rulings by the Court or the granting or denial of any award rendered by a jury.

(ii) Given the claims for injury and based on the contesting of the claims with an outcome being uncertain, the settlement was fair, reasonable, and negotiated at arms' length.

(iii) Given the time that would be needed to further the litigation through trial and additional costs that would be incurred, the minor would be deprived of the full value of the compensation she will now receive because of the settlement.

(iv) Pursuant to the recommendations of the GAL, all counsel, J.R., and the minor child, S.R., who will turn 18 on December 8, 2021, the Court finds that it is in her best interest to approve the settlement and conclude the litigation in both the federal and state forums.

II. Analysis and Approval of the Distribution Proposal

The Court also heard evidence from all parties and counsel and the recommendation from the Guardian ad Litem to approve a distribution of the proceeds that will be received by the minor as follows:

- (i) An immediate distribution of \$400,000 (four hundred thousand) to S.R. to invest in property in Texas, a car, a family vacation and access to mental health medical care and educational opportunities.
- (ii) The remaining \$350,000 (three hundred fifty thousand) to be placed in a Halpern trust for 18 years. The trust will be implemented through Plaintiff's counsel. S.R. shall leave that amount in the interest-bearing trust as proposed, and after 18 years, withdraw and utilize as she deems necessary the interest that has accumulated on the \$350,000. She will then leave the base \$350,000 in the interest-bearing trust account for another 18 years and she will be authorized to then utilize any amount that is in the trust at that time as she deems appropriate.

The Court finds that the above distribution schedule as presented to the Court to be reasonable and of immediate and future benefit to the minor and in her best interest.

The Court hereby adopts the above findings of fact, approves the settlement and the distribution of proceeds as set forth above. The Court also finds that the payment of attorney fees, reimbursement of costs and related expenses as set forth in the GAL report to be reasonable and necessary and agreed to by the parties.

The Court further notes that a proper Global Release has been executed in this matter. The parties are to prepare and submit to the Court for approval the Order of Dismissal with Prejudice of the federal proceeding and to submit an Order of Dismissal with Prejudice in the state proceeding within 30 days of the entry of this order.



THE HONORABLE JERRY H. RITTER
United States Magistrate Judge
Presiding By Consent

Approvals:

WALZ AND ASSOCIATES, P.C.

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Guardian ad Litem for S.R.